

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>ROBERT W. WARRINGTON,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 06-67-SLR
	:	
<b>THOMAS L. CARROLL,</b>	:	
Warden, and <b>CARL C. DANBERG,</b>	:	
Attorney General for the State of Delaware,	:	
	:	
Respondents.	:	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Robert W. Warrington, has applied for federal habeas relief, challenging his 2001 conviction by a Superior Court jury for first degree murder, possession of a deadly weapon during the commission of a felony, and first degree conspiracy. D.I. 1. By the terms of the Court's order dated May 4, 2006, the answer is due to be filed on June 22, 2006.

2. Counsel for respondents has been, and continues to be, diligently working on numerous cases before this Court and the state courts, including other first degree murder cases. However, the departure of three deputies from the Appeals Division has increased the workload for the few remaining attorneys. Two new deputies have accepted positions in the Appeals Division, but one will not be able to begin work until July, and the other will begin in August. Counsel was out of the office for two days last week for a previously planned vacation. In light of the situation, an additional week is needed to complete the answer and have it reviewed in the ordinary course of

business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' second request for an extension of time in this case.

5. Respondents submit that an extension of time to and including June 30, 2006, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759

DATE: June 19, 2006

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General

Counsel for Respondents

Date: June 19, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2006, I electronically filed a motion for extension of time and attachments with the Clerk of Court using CM/ECF. I also hereby certify that on June 19, 2006, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Robert W. Warrington  
SBI No. 442182  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
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elizabeth.mcfarlan@state.de.us

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Attorney General for the State of Delaware, :  
:  
Respondents :  
:

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before June 30, 2006.

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United States District Judge